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FILED

APR 13 2011

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12 UNITED STATES OF AMERICA

13 Plaintiff,

14 vs.

15 DANIEL ZAPATA,

16 Defendant.

Case No. CR-10-70815-PSG

STIPULATION AND ~~PROPOSED~~ ORDER TO
CONTINUE PRELIMINARY HEARING AND
TOLL TIME UNTIL JUNE 2, 2011 at 9:30 am

17
18 The parties, including the defendant, hereby stipulate, subject to Court approval,
19 that the preliminary hearing date currently set for April 14, 2011 at 1:30 p.m, be vacated,
20 and the Court set a new date of June 2, 2011 at 9:30 p.m.

21
22 1. The parties, Daniel Zapata and the government, acting through their
23 respective counsel, hereby stipulate, subject to the Court's approval, that the preliminary
24 hearing date currently set for April 14, 2011 at 1:30 p.m., be vacated and that the Court set
25 a new hearing date of June 2, 2011, at 9:30 a.m.

26
27 2. The parties are requesting the continuance of the hearing date pending
28 completion of settlement negotiations which are progressing but not yet complete. 3.

3. The parties further agree and stipulate that time for preliminary hearing provided by Fed. R. Crim. Proc. 5.1(c) should be tolled until June 2, 2011, at such time the 14 day clock will commence to run. Accordingly, Mr. Daniel Zapata and the government agree that granting the requested exclusion of time will serve the ends of justice, and that the ends of justice outweigh the interest of the public and the defendant in a speedy trial.

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: April 13, 2011

/S/
THOMAS M. O'CONNELL
Assistant United States Attorney

Dated: April 13, 2011

/S/
WM. MICHAEL WHELAN, JR.
Attorney for defendant DANIEL

ZAPATA

ORDER

Good cause appearing, and by stipulation of the parties in the above-captioned matter, it is hereby ordered that the hearing shall be continued from April 14, 2011 to June 2, 2011 at 9:30 a.m., and further ordered that the time for preliminary hearing provided by Fed. R. Crim. P. 5.1(c) should be tolled until June 2, 2011, at which time the 14-day clock shall commence to run.

IT IS SO ORDERED.

Date: April 13, 2011


PAUL S. GREWAL
United States Magistrate Judge